

# CITY OF NEWTON, MASSACHUSETTS

## PURCHASING DEPARTMENT

[purchasing@newtonma.gov](mailto:purchasing@newtonma.gov)

Fax (617) 796-1227

July 21, 2011

## ADDENDUM #1

### REQUEST FOR PROPOSAL #12-02

### SENIOR CENTER CAFÉ

THIS ADDENDUM IS TO: **Answer the following Question and provide entire Revised Formal Bid Document with updated pages 2 - 12:**

Q1. We are interested in bidding on the window treatments for this project. Anyway you can lead me to the specs for this project?

**A1. WINDOW TREATMENT IS NOT A PART OF THIS BID. THE SENIOR CENTER DINING ROOM AREA CURRENTLY HAS WINDOW TREATMENT. THIS BID IS SOLELY FOR THE OPERATION OF A CAFÉ AT THE NEWTON SENIOR CENTER.**

#### **CORRECTIONS TO FORMAL BID DOCUMENT:**

**Page 2 – Added section on Proposal Submission Instructions requesting five (5) copies of the Technical Proposal in a sealed envelope and two (2) copies the Price Proposal in a separate sealed envelope.**

**Page 3 – Added section on how to submit your questions along with the deadline.**

**Page 4 – Added Quality Requirement section**

**Page 6 – Removed mention on pricing from the sample menu in the Initial Evaluation. A sample menu is still required without pricing as a part of the Technical Proposal.**

**Page 7 – Added to the Award of Contract that pricing will be considered in addition to the listed comparative criteria. We are looking for high quality food at the lowest price.**

**Page 8 – Added Price Proposal page**

**Page 12 – Replaced Exhibit A.**

All other terms and conditions of this bid remain unchanged

**PLEASE ENSURE THAT YOU ACKNOWLEDGE THIS ADDENDUM ON YOUR BID FORM.**

Thank you.



Rositha Durham

*Chief Procurement Officer*

**CITY OF NEWTON  
PURCHASING DEPARTMENT**

***CONTRACT FOR SENIOR SERVICES***

**REQUEST FOR PROPOSAL:**

**SENIOR CENTER CAFÉ**

**RFP #12-02**

**Pre Bid Meeting Date: July 28, 2011 at 10:00 a.m.**

**Proposal Submittal Date: August 4, 2011 at 10:00 a.m.**

**JULY 2011**

**Setti D. Warren, Mayor**

**CITY OF NEWTON, MASSACHUSETTS  
PURCHASING DEPARTMENT**

**July 21, 2011**

**REQUEST FOR PROPOSAL  
NEWTON SENIOR CENTER CAFE**

**Introduction**

The City of Newton is requesting proposals for the operation of a cafe at the Newton Senior Center. The cafe will provide, for example but not limited to: drinks, coffee, snacks, sandwiches, salad and soup to Senior Center patrons, employees and the general public. The Department of Senior Services intends that the cafe will provide its patrons with high quality fare at good value. The successful proposer will have limited access to the Senior Center's kitchen and an area where food is to be consumed. All major food preparation tasks are expected to happen on an off-site location provided by the Operator.

**Decision to Use Competitive Sealed Bids**

The Chief Procurement Officer has determined that in order to select the most advantageous proposal to operate the cafe at the Senior Center, comparative judgments of various factors will be necessary. The food offered needs to be of high quality, healthy, with good variety and good value. In addition, the successful proposer will be one whose business plan for operation of the Cafe demonstrates a thoughtful and realistic projection of the associated revenue and expenses. The City will also evaluate a proposer's business and catering and/or restaurant background to determine that the proposer can successfully provide the services expected. Each proposer will be interviewed by an Evaluation Committee, and prepared samples of proposed menu selections must be presented for evaluation by the Committee.

In as much as the City is providing the Cafe space and required utilities at no cost outside of the \$1.00 per year license fee and there will be no further monetary transaction between the contractor and the City pursuant to this contract, there will be no Cost Proposal associated with this Request for Proposals. The successful proposal will be selected solely based on evaluation of the Technical Proposal as defined herein.

**Proposal Submission Instructions**

**GOVERNING LAW AND DEADLINE FOR SUBMISSION:** All proposals must be submitted in accordance with Massachusetts General Laws Chapter 30B, § 6, to the Chief Procurement Officer in the Purchasing Department, Newton City Hall, 1000 Commonwealth Avenue, Newton, MA 02459 **no later than 10:00 a.m., August 4, 2011.** Proposals must be submitted in two separate sealed envelopes, one **marked "RFP No. 12-02 Technical Proposal for Senior Center Cafe" containing five (5) copies of the Technical Proposal and the other marked "RFP No. 12-02 Price Proposal for Senior Center Café"** containing two (2) Price Proposals. Price Proposals shall NOT be submitted with Technical Proposal. Any Technical Proposal containing any part of a Price Proposal shall be deemed non-responsive.

The Proposals must be addressed to:

Rositha Durham, Chief Procurement Officer  
City of Newton, Purchasing Department  
1000 Commonwealth Avenue  
Newton, MA 02459

There will be no public opening of proposals. Proposals received after the deadline will not be considered. The names and addresses of all parties submitting proposals will be recorded and the proposals then provided to the committee selected to evaluate them.

A Pre-proposal meeting shall be held at The Newton Senior Center, 345 Walnut St, Newtonville, MA at **10:00 a.m., July 28, 2011** for all those interested in submitting a proposal.

**Questions**

Inquires involving procedural or technical matters shall be in writing to purchasing @newtonma.gov or faxed to the Chief Procurement Officer at 617-796-1227 not later than 12:00 noon Friday, July 29, 2011.

### **Scope of Work and General Requirements**

1. The successful proposer (“Operator” hereafter) will provide cafe patrons with a basic menu of high quality, varied food and drinks. Approximately 200 people use the Senior Center each day. Menus and price ranges are to be determined in advance, and must be approved by the Senior Services Director. The City expects that the Cafe will operate at **minimum Monday through Friday from approximately 9 a.m. to 3 p.m.**
2. The City will license the Operator to use the space as shown on the attached Exhibit A for the sole purpose of operating a cafe in accordance with this RFP. The cost of electricity, gas, water and sewer will be provided by the Department of Senior Services. The following equipment is installed in the space identified as Kitchen on Exhibit A and will be available for use by the Operator in coordination with the current federally funded lunch program’s Meal Site Manager:
  - Refrigerator space
  - Two stainless steel sinks
  - microwave oven
  - dishwasher
  - A food kiosk staging/service area
3. The Department of Senior Services shall be responsible for the provision of furnishings for the Café eating area consisting of 10 tables, 20 chairs, and waste receptacles.
4. The Operator shall be responsible for all required cleaning of café kiosk, food service area and the immediate surrounding area. A minor repair is defined as a repair to a specific piece of equipment costing \$250.00 or less.
5. The Operator will obtain at its sole expense all local, state or federal licenses and/or approvals necessary for its operation of a cafe in the premises and shall maintain such licenses/approvals throughout the time it uses the premises pursuant to this RFP. The Operator will comply with all local, state and federal laws and ordinances in operating the cafe. All food code regulations will apply to this facility (MA State Food Code 105 CMR 590)
6. The Operator shall be responsible to provide any additional equipment and/or improvements to the premises which are required by reason of its operation of the cafe in the premises. Any modifications to the space or additional equipment which the Operator on its own deems necessary to the operation of the Cafe must be provided by the Operator. All such modifications or additional equipment to be delivered to or installed in the Cafe space must be approved in advance by the Senior Services Director. The City reserves the right to perform any proposed modification to the space with its own work crews. Any equipment, fixture or appurtenance the installation of which requires a permanent alteration to the building structure shall become the property of the City upon expiration or termination of the agreement. The City, at its discretion may allow the Operator to remove equipment, fixtures or appurtenances if the Operator at its own expense and to the City’s satisfaction restores the building structure to its condition prior to installation.
7. The Operator shall provide all required dishware, flatware, paper goods and other utensils and appliances required for the serving and consumption of the menu items. Commercial quality paper/plasticware for patrons use will be acceptable.
8. All major food preparations tasks are expected to happen on an off-site location provided by the Operator.
9. For purposes of minor food preparation, cleaning, etc. the Operator will be allowed access to the Cafe space between the hours of 8:30 A.M. and 9:00 P.M. Monday through Friday.
10. The Contractor shall have no right to use the premises except during those hours described above or as specifically permitted by the Senior Services Director. The cafe operation shall not interfere with the normal operations of the Senior Center.
11. The City or individuals as permitted by the City may use the Cafe seating space at times when the cafe is not operating, provided that such use shall not be inconsistent with the Contractor's use and the City notifies the Contractor of such intended use in advance. The Contractor shall not be responsible for any damage to the Premises caused by the City or such individuals or groups. The seating area is to be available to all Senior Center patrons and the general public even if they have not purchased food from the cafe.

11. The term of the agreement resulting from this RFP **shall extend for one year from the date of contract execution.** The City may, at its discretion, extend the contract for **two additional one year terms.** Prior to exercising an option to renew, the City reserves the right to review financial records of the Contractor, including statements of revenue and operating expense for the Café. The City may, if warranted, require the Contractor to enter into good faith negotiations regarding an increase in the license fee prior to renewing the contract.
12. The City may terminate this Agreement at any time upon thirty (30) days written notice for any reason including its own convenience or for cause, including but not limited to, failure to pay monies due for use of the Premises, failure to have any necessary local, state or federal licenses and/or permits, failure to comply with any local, state or federal regulations pertaining to food establishments of this type, and failure to promptly correct any use of the Premises which conflicts with the City's use. In the case of a termination for cause, the City shall give the Operator a written notice of termination stating the basis of the termination, effective thirty (30) days after the Contractor's receipt of such termination notice. The Operator shall have the right to cure the for cause termination within ten (10) days of receipt of the termination notice.
13. The Operator will be responsible to hire and supervise its own employees as required to prepare and serve the food it provides, and shall be in charge of all the day to day operations of the cafe, including, but not limited to the ordering and preparation of food, oversight of the area where the food is to be consumed including discouraging food from being taken to other areas of the building, and cleaning of the food preparation area and the seating area.
14. A qualified on-site manager must be present 20% of the overall operating hours of the Café. A trained, responsible employee must be available during all other operating hours of the Café. In addition, the Senior Services Director shall have direct access to either the manager or Operator during all operating hours.
15. Before beginning operations, the cafe operator will be expected to provide certificates of insurance, naming the City as an additional insured reflecting the existence of at least \$1,000,000 of General Comprehensive Liability Insurance, including Products and Completed Operations coverage and workmen's compensation insurance covering any employees. The Operator will be responsible for providing property loss insurance for its own property located in the Cafe Space.

#### Quality Requirement

All proposals must meet the following quality requirements in order to be considered for further evaluation:

1. **Experience.** The proposer, on site manager, and critical staff members, must have at least five years experience in the restaurantor food service industry.
2. **Standard Menu.** The proposed standard menu must include a minimum of 3 breakfast selections, 3 lunch selections – including salad, sandwiches and one hot item – and selections from each of the identified beverage categories, in addition to 1 dessert item, 4 snack items (1healthful option) and 1 seasonal fruit.
3. **Optional Daily Specials.** The sample lunch special proposed in accordance with item 1 of the Proposal Submission Requirements, it may be a hot or cold or low=fat and low calorie special.
4. **Staffing Requirements.** The proposed business plan must indicate that at least two staff members will be present during peak hours (12:00 p.m. to 1:30 p.m.) to ensure prompt service at the serving line. If the proposal is offering a partially pre-made menu, an alternative staffing schedule will be considered. Staff will be expected to not take lunch or other employee breaks during this period. The Person in Charge (individual with Food Service Certificate) shall be on-site for at least 80% of operating hours.

The proposed business plan will have resumes of all key personnel and staff.

Operator and staff will be required to behave in a professional and courteous manner at all times and trained on the menu pricing to ensure consistancy.

5. **Menu Display.** A menu will be displayed for patrons to see the current pricing for all items. Staff will be trained and familiar with the pricing.

#### Proposal Submission Requirements

To be responsive, the technical proposal must incorporate the following elements in the exact order as it appears here:

1. Proposed Menu. Each proposal shall include a proposed menu, including prices to be charged. The proposed menu shall, at a minimum, include the following categories of food:
  - a. Coffee, tea, hot cocoa, milk, fruit juices, soft drinks;
  - b. Bagels, muffins, scones;
  - c. Sandwiches, at least 2 of which shall be offered each day;
  - d. Salads, at least 1 of which shall be offered each day;
  - e. Fresh fruit;
  - f. Yogurt, cookies, other desserts.
  - g. Soups
2. Proposed Dishes and Flatware. Proposed dishes and utensils for serving the food and drinks should be made available to the Committee to evaluate.
3. Experience and Qualifications. Each proposal shall include a description of the qualifications and food service experience of the proposer and on-site manager, if different. The proposer or on-site manager must have at least three years of experience managing a food service operation to be considered. A description of all food safety, management and/or preparations courses or programs attended by the proposer or the on-site manager should be provided, including certificates and degrees awarded.
4. Proposed Cleaning and Maintenance Schedule. Each proposal shall include a schedule of routine cleaning on a daily, weekly and monthly basis. Please set forth the schedule of proposed maintenance you intend to provide.
5. Proposed Business Operations Plan. Each proposal shall include the Operator's projected business plan for operation of the Cafe. Areas covered by the plan should include at a minimum the following:
  - a. Proposed plan of operation in such areas as staffing level during peak and non peak periods, percentage of food prepared on and off site, delivery schedules, methods of displaying and serving food, etc.
  - b. Detailed projection of start up costs. Prior to award of a contract the proposer may be required to demonstrate the availability of sufficient capital to defray start up costs.
  - c. Projected operating expenses in the categories of staff, food and staples, paper and other consumables, and other routine operating expenses
  - d. Projected sales revenue with a detailed analysis to support the revenue projection
6. References. A minimum of three business references should be submitted from individuals in a position to observe the proposer in related work.

## **Initial Evaluation**

Responsive proposals will be evaluated based on the following comparative criteria:

1. A proposed menu that includes a variety of items will be considered highly advantageous. A proposed menu that does not include variety of items will be considered not advantageous.
2. The proposed dishes and utensils for serving the food and drinks will be judged on their quality and attractiveness. Dishes and utensils which combine high quality paper/plastic materials with excellent durability and attractiveness will be considered highly advantageous. Those which provide good quality paper/plastic materials, durability and attractiveness will be considered advantageous. Those which are poor in quality or unattractive will be considered not advantageous.
3. Proposers or on-site managers with more than five years experience in the food service industry will be considered highly advantageous. At least three years of such experience will be considered advantageous. Less than three years of such experience will be considered not advantageous.
4. Proposers with an on-site manager (including the proposer if applicable), who has successfully completed at least one accredited food safety course or program will be rated advantageous. Bidders with an on-site manager who has completed additional food safety, and other food management and/or food preparation courses will be rated highly advantageous. Bidders with an on-site manager who has not successfully completed a food safety course or program will be rated not advantageous.
5. The proposed Cleaning and Maintenance Schedule will be evaluated for compliance with all state health, sanitation and safety standards and to determine whether it will lead to the preservation of the City provided space and equipment in good working order. If the Schedule contains basic health and sanitation practices, meets all safety standards and contains adequate provisions to ensure the continued good working order of the City provided space and equipment, the proposal will be rated advantageous. If the Schedule does not contain sufficient safety standards or basic health and sanitation practices or fails to contain adequate provisions to ensure the continued good working order of the City provided space and equipment, then the bid will be rated not advantageous.
6. The proposed Business Operations Plan shall be evaluated for financial adequacy and adequacy of service. Those Plans presenting an exceptional degree of service, while making sense financially and showing that the necessary capital is available, as well as demonstrate that the highest percentage of food is prepared off site and lower percentage of food is prepared on-site will be rated highly advantageous. If the Plan makes sense financially, shows that the necessary start up capital is available and will provide appropriate service for the café's patrons, as well as, demonstrate that equal percentage of food prepared off-site and on-site, the proposer will be rated advantageous on this criteria. If the Plan does not make sense financially, fails to show that the necessary start up capital is available, or is insufficient to provide appropriate service to satisfy the needs of the café's patrons, as well as demonstrates that a lower percentage of food is prepared off-site and higher percentage on-site, the proposal will be rated not advantageous on this criteria.

## **Final Evaluation**

Based on the initial evaluative criteria each proposal will be assigned an overall ranking of Highly Advantageous, Advantageous, Not Advantageous or Unacceptable. Those proposers whose submittals are rated Advantageous or better will be scheduled for an interview and tasting, the purpose of which is to permit the evaluators to discuss the proposer's and on-site manager's experience and qualifications in depth, to evaluate the proposer's and on-site manager's interpersonal skills, dependability and flexibility, and to evaluate by tasting a representative sampling of the food being proposed. Because of the nature of the relationship between the cafe manager and Senior Center's administrators, it is important that the evaluators be able to determine whether the proposer and on-site manager will be able to work with Senior Center's administrators on an on-going basis.

The results of the interview and tasting will be evaluated according to the following criteria:

1. The quality of food products will be measured through the tasting and by judging their appearance. Fresh and appealing ingredients combined in appropriate proportions with a good taste and visual appeal will be considered highly advantageous. Those which have poor taste and/or poor visual appeal will be considered not advantageous.
2. Proposers and on-site managers who evidence excellent interpersonal skills, dependability and flexibility will be rated highly advantageous. Those evidencing an acceptable level of interpersonal skills, dependability and flexibility will be rated advantageous. Those not evidencing the requisite qualities will be rated not advantageous.

### **Award of Contract**

**The contract will be awarded to the proposer deemed by the evaluation committee and the Chief Procurement Officer to have submitted the most advantageous proposal taking into consideration all of the listed comparative criteria and price.**

**The City reserves the right to reject any and all proposals as determined to be in the best interests of the City.**

**END OF SECTION**

**CITY OF NEWTON**  
**DEPARTMENT OF PURCHASING**  
**PRICE PROPOSAL #12-02**

- A. The undersigned proposes to supply the services specified below in full accordance with the Contract Documents and Project Manual supplied by the City of Newton entitled:

**Newton Senior Center - Cafe**

for the contract price(s) specified below, subject to additions and deduction according to the terms of the specifications. This form must be completed and placed in a separately sealed envelope **"Price Proposal."**

- B. This proposal includes addenda number(s) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_,

- C. The proposed menu shall include, at a minimum, the following categories of food:

1. Coffee, tea, hot chocolate , milk, fruit juices, soft drinks \$ \_\_\_\_\_

2. Bagels, muffins, scones \$ \_\_\_\_\_

3. Sandwiches \$ \_\_\_\_\_

4. Garden salad \$ \_\_\_\_\_

5. Fresh fruit \$ \_\_\_\_\_

6. Yogurt, cookies, other desserts \$ \_\_\_\_\_

7. Soups \$ \_\_\_\_\_

D. TOTAL COST \$ \_\_\_\_\_

Name of Firm \_\_\_\_\_  
(Please Print)

Address: \_\_\_\_\_

Telephone / FAX#: \_\_\_\_\_ / \_\_\_\_\_

E-mail address: \_\_\_\_\_

- E. The undersigned agrees that, if selected as contractor, s/he will within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the City of Newton, execute a contract in accordance with the terms of this bid. The undersigned hereby certifies that s/he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work and that's/he will comply fully with all laws and regulations applicable to awards made subject to M.G.L. Chapter 30B.

The undersigned further certifies under the penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this section the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from public contracting or subcontracting in the

Commonwealth under the provisions of M.G.L. Chapter 29, Section 29F or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

Date \_\_\_\_\_

\_\_\_\_\_  
(Name of Proposer)

BY: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name and Title of Signatory)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
(City, State Zip)

**NOTE:** If the proposer is a corporation, indicate state of incorporation under signature, and affix corporate seal; if a partnership, give full names and residential addresses of all partners; if an individual, give residential address if different from business address; and, if operating as a d/b/a give full legal identity. Attach additional pages as necessary.

## **CERTIFICATE OF NON-COLLUSION**

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word “person” shall mean any natural person, business, partnership, corporation, union, committee club, or other organization, entity, or group or individuals.

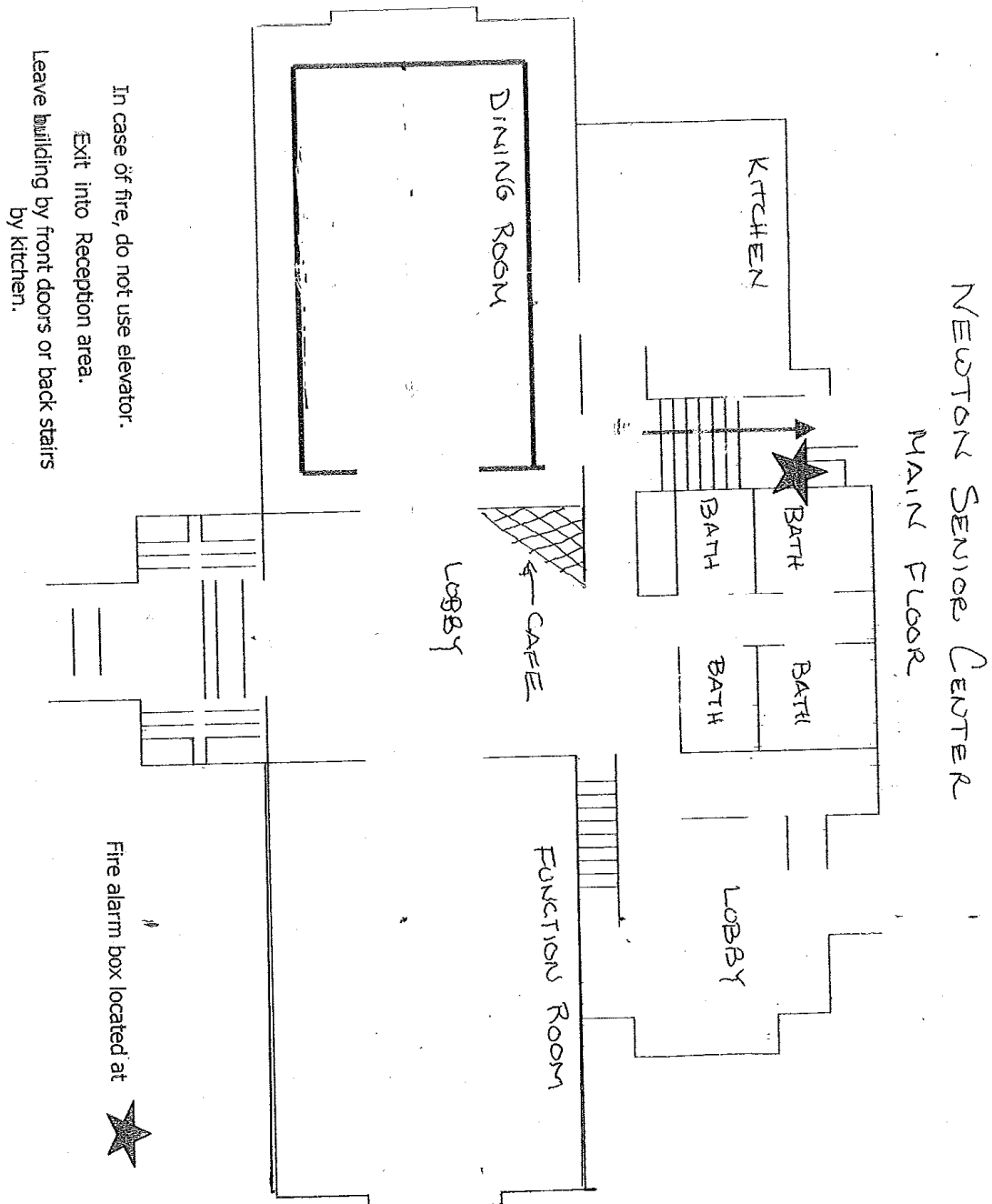
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(Signature of individual)

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Name of Business

# EXHIBIT A



## **CONTRACT FORMS**

The awarded bidder will be required to complete and submit the following documents in order to execute a contract pursuant to this bid.

The forms are provided for informational purposes only.

**None of the following forms are required at the time of bid submittal.**

**CITY - CONTRACTOR AGREEMENT - NO. C-**  
**FOR**  
**NEWTON SENIOR CENTER CAFE**

This Agreement and License for use of the Newton Senior Center Café space ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2011 by and between:

the("OPERATOR"), and the City of Newton, a municipal corporation existing under the laws of the Commonwealth of Massachusetts, acting through its Director of Personnel Human Resources, its Commissioner of Public Buildings and its Chief Procurement Officer, but without personal liability to them, ("CITY").

WITNESSETH that:

WHEREAS, the CITY desires a cafe primarily serving Newton Senior Center patrons ,employees and the general public to be operated on the first floor of the Newton Senior Center ("Premises") and is willing to license the Premises, which includes the kitchen and adjacent seating area, and the seating will be provided by OPERATOR therein for that purpose; and

WHEREAS, the OPERATOR responded to the CITY's Request for Proposals #12-02 and the OPERATOR's Proposal was determined to be the best responsive proposal.

NOW, THEREFORE, in consideration of the promises contained in this Agreement, the CITY and OPERATOR agree as follows:

**1. CONTRACT DOCUMENTS.**

1.1 The Contract Documents consist of the following documents which are either attached to this Agreement or are incorporated therein by reference:

- a. This Agreement.
- b. EXHIBIT A: The CITY's Invitation No. RFP #12-02.
- c. EXHIBITS B: The OPERATOR's Proposal ("Proposal"), dated \_\_\_\_\_, provided, with the sample menu selections, licenses, and prices contained in such Proposal.

This Agreement, together with the other documents enumerated in this Article including any amendments executed in accordance with the provisions of this Agreement, constitute the entire contract between the CITY and the OPERATOR, and any reference herein to the "Agreement" shall be deemed to include all Contract Documents unless it is clear from the context of the sentence in which the word "Agreement" appears that such work is only intended to refer to the provisions contained in this Agreement form itself.

1.2 In the event of any inconsistencies between a provision(s) of the text of this Agreement and any provision(s) of any such attached document(s), the parties intend to be bound by the provision(s) as set out in the text of this Agreement.

**2. SCOPE OF SERVICES.**

The OPERATOR shall operate the Newton Senior Center Cafe in accordance with the terms and conditions for such services as set forth in Exhibit A, including but not limited to the terms and conditions contained in the RFP's Scope of Work, Proposal Submission requirements, Initial Evaluation criteria, and the Final Evaluation. The OPERATOR agrees to operate the café Monday through Friday 9:00 a.m. – 3:00 p.m. when Newton Senior Center is normally open for the term of this Agreement. To the extent that the manner of performing the services is not specified in Exhibit A, the OPERATOR shall perform such services in accordance with its representations, if any, contained in Exhibits B, and more specifically, shall provide staffing for the cafe in accordance with its "Proposed Business Operations Plan" (Part VII)" contained in Exhibit B. Any modification of the scope of services to be provided or the manner of providing such services shall require an amendment to this Agreement executed in accordance with the provisions of Paragraph 14 of this Agreement, provided, however, that the initial review and approval, and any modification of such approval, for pricing and portion sizes as provided in Exhibit B, and any modification of staffing patterns from that proposed in Exhibit B need only be approved in writing by the Senior Services Director.

The parties recognize that subsequent to the execution of this Agreement, the OPERATOR will require a short period of start-up time before the cafeteria can commence full operations in accordance with all the requirements of this Agreement.

**3. TERM.**

The term of this Agreement shall extend for one year from the date of contract execution. The City may, at its discretion, extend the contract for two additional one year terms, unless terminated earlier in accordance with the provisions of Exhibit A, Part VII, Section A 4.

**4. COMPENSATION.**

The OPERATOR shall receive no compensation from the CITY for the services provided pursuant to this Agreement, provided, however, that the CITY shall pay the cost of utilities to run the cafeteria. In addition, the CITY shall provide and maintain a telephone line and telephone at the Premises for the OPERATOR's use. The OPERATOR shall be responsible for monthly long distance and usage charges.

**5. USE PREMISES AND EQUIPMENT.**

5.1 provides cafeteria services to the CITY under the provisions of this Agreement, the CITY grants to the OPERATOR a license to use the Premises and certain City-owned Equipment and Furnishings in accordance with the provisions of Exhibit A, Paragraph 2 of the Scope of Work and General Requirements. The rights given to the OPERATOR hereunder shall not constitute either an easement, lease, tenancy at will or other similar property right, but shall be simply a revocable license. This Agreement shall not be recorded or filed in the Registry of Deeds or the Land Registration Office and it contains all the agreements made between the parties hereto with regard to use of the Premises or City-owned Equipment.

5.2 The OPERATOR agrees that if any aspect of its cafeteria operation conflicts with the normal operations of Newton Senior Center, the OPERATOR shall, upon notice, promptly eliminate the identified conflicting use.

5.3 The OPERATOR shall provide at its own expense any additional equipment or furnishings which it deems necessary for the operation of the cafeteria as required under this Agreement in accordance with the provisions of Exhibit A, Paragraphs 1-15. The OPERATOR shall be solely responsible for the loss or damage to its own equipment, furnishings, materials or supplies which are kept or stored on the premises of Newton Senior Center, and shall be responsible for providing property loss insurance for such equipment, furnishings, materials or supplies.

5.4 The OPERATOR shall be responsible for any damage to the Premises or City-owned Equipment or Furnishings which is caused by its employees, agents or invitees, including damage caused by patrons of the cafeteria. The OPERATOR shall repair any such damage at its sole cost and expense and shall also make all reasonable efforts to insure that the Premises, City-owned Equipment or Furnishings are left in at least as good condition as it was at the time it took

over such space, reasonable wear and tear excepted. The OPERATOR shall not be responsible for any damage to the Premises, City-owned Equipment or Furnishings which are caused by City employees and occurs when they are not café patrons, nor for damage caused by other individuals or groups which may use the Premises, City-owned Equipment or Furnishings pursuant to the provisions of Exhibit A, Paragraph 2.

5.5 The OPERATOR shall not use the Premises, City-owned Equipment, Furnishings or the utilities provided except to perform the services called for under this Agreement, unless such use is approved in writing by the Commissioner of Public Buildings.

## **6. SIGNAGE.**

The OPERATOR shall not erect or place any sign on the exterior of the Newton Senior Center and shall not solicit café patrons outside of the Newton Senior Center except as provided in Exhibit A, Part VII, Section A 2. Any signage on the interior of the Newton Senior Center shall be subject to review and approval of the Director of Senior Services.

## **7. INDEPENDENT CONTRACTOR.**

**The OPERATOR agrees that it is responsible as an independent OPERATOR for its respective operations and for all acts of its officers, employees and/or agents. The OPERATOR agrees that it shall indemnify, hold harmless and defend the City of Newton, its officers, boards, committees and employees, from any and all loss, damage, cost, charge or expense including but not limited to attorneys' fees, court costs and interest arising out of damage or loss to persons or property sustained by anyone by reason of the use or occupation by the OPERATOR of the Premises, or caused in whole or in part directly or indirectly by an act, default or omission of the OPERATOR or its officers, agents, employees or anyone for whose acts the OPERATOR may be held liable, regardless of whether or not said damage or loss is caused in part by the City of Newton, its officers, boards, committees or employees, or omission by its officers, agents, employees or anyone for whose acts the OPERATOR is responsible. Certificates of insurance reflecting the required general comprehensive liability coverage and worker's compensation coverage for the OPERATOR's employees shall be submitted by the OPERATOR at the time it signs this Agreement and shall be provided by the OPERATOR as coverage are renewed.**

## **8. NOTICES.**

Any notice given under the Agreement by either party to the other shall be sufficient if sent by United States registered or certified Mail, postage prepaid, addressed as follows:

To the OPERATOR:

To the CITY:

Jayne Colino  
Director of Senior Services  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

and

City Solicitor  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

**9. MISCELLANEOUS PROVISIONS.**

Upon request, the OPERATOR shall provide the CITY with copies of any and all licenses, permits and/or approvals necessary for its performance of the services called for under this Agreement. In addition, the OPERATOR will provide the CITY with copies of any of the materials used to train its staff, and/or permit the CITY to observe its training activities with staff, and will provide evidence that all staff has received the appropriate training for the work which they are performing and have any and all certifications and/or licenses which may be required in order to perform such work.

The storage, preparation and service of all food and beverages provided by the OPERATOR pursuant to this Agreement shall comply with all applicable federal, state and/or local health laws, ordinances, codes or regulations.

Upon request, the OPERATOR shall provide the CITY with nutritional and/or ingredient information concerning the food or beverages offered by the OPERATOR and shall use its best efforts to provide nutritious, high quality food and beverages at a low price.

The OPERATOR shall contact the Newton Health Dept., John McNally (617) 796-1420, no less than 6 business day prior to beginning services so that they may complete a health inspection.

**10. GOVERNING LAW & MODIFICATIONS.**

This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. This Agreement cannot be modified orally, but can be changed only through a duly authorized written amendment executed in the same manner as this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement under seal in quintuplet on the dates set out below.

**OPERATOR**

**CITY OF NEWTON**

By: \_\_\_\_\_

By: \_\_\_\_\_

*Chief Procurement Officer*

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

*Director of Senior Services*

*Affix Corporate Seal Here*

Approved As To Legal Form and Character

Date: \_\_\_\_\_

**APPROVED**

By: \_\_\_\_\_

*Associate City Solicitor*

By: \_\_\_\_\_

*Mayor or his designee*

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## CERTIFICATE OF AUTHORITY - CORPORATE

1. I hereby certify that I am the Clerk/Secretary of \_\_\_\_\_  
(insert full name of Corporation)
2. corporation, and that \_\_\_\_\_  
(insert the name of officer who signed the **contract and bonds.**)
3. is the duly elected \_\_\_\_\_  
(insert the title of the officer in line 2)
4. of said corporation, and that on \_\_\_\_\_  
(insert a date that is ***ON OR BEFORE*** the date the officer signed the **contract and bonds.**)

at a duly authorized meeting of the Board of Directors of said corporation, at which all the directors were present or waived notice, it was voted that

5. \_\_\_\_\_ the \_\_\_\_\_  
(insert **name** from line 2) (insert **title** from line 3)

of this corporation be and hereby is authorized to execute contracts and bonds in the name and on behalf of said corporation, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this corporation's name and on its behalf, with or without the Corporate Seal, shall be valid and binding upon this corporation; and that the above vote has not been amended or rescinded and remains in full force and effect as of the date set forth below.

6. ATTEST: \_\_\_\_\_ *AFFIX CORPORATE  
SEAL HERE*  
(Signature of **Clerk or Secretary**)\*
7. Name: \_\_\_\_\_  
(Please print or type name in line 6)\*
8. Date: \_\_\_\_\_  
(insert a date that is ***ON OR AFTER*** the date the officer signed the **contract and bonds.**)

\* The name and signature inserted in lines 6 & 7 must be that of the Clerk or Secretary of the corporation.

## ATTESTATION

Pursuant to MG c. 62C, § 49A, the undersigned acting on behalf of the Contractor, certifies under the penalties of perjury that, to the best of the undersign's knowledge and belief, the Contractor is in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.\*

\_\_\_\_\_  
\*\*Signature of Individual  
or Corporate Contractor (Mandatory)

\_\_\_\_\_  
\*\*\* Contractor's Social Security Number  
(Voluntary) or Federal Identification Number

By: \_\_\_\_\_  
Corporate Officer  
(Mandatory, if applicable)

Date: \_\_\_\_\_

\* The provision in the Attestation relating to child support applies only when the Contractor is an individual.

\*\* Approval of a contract or other agreement will not be granted unless the applicant signs this certification clause.

\*\*\* Your social security number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended. This request is made under the authority of GL c. 62C, § 49A.